IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1878 OF 2004

Pintu @ Kakaso Akaram Biranje ... Applicant

versus

The State of Maharashtra ... Respondent

...

Mrs. Rucheeta Dhuru and Mr. Subodh Desai, for the Applicant, amicus curiae.

Mr. A.S. Gadkari, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

16th February 2005

P.C.:

. Heard Counsel for the parties. Rule. Rule made returnable forthwith by consent. Mr. Gadkari, A.P.P., waives notice for the Respondent. As short question is involved, petition taken up for final disposal forthwith by consent.

2. This petition takes exception to the

order passed by the Deputy Inspector-General of Prisons dated 19th May 2004 rejecting the Petitioner's request for granting furlough leave. The ground stated in the order is that there is danger to the life of witnesses, if the Petitioner was to be released on furlough leave. No other reason has been recorded. After hearing Counsel for the parties, to my mind, the reason as recorded is inappropriate. It clearly overlooks the fact that the Petitioner availed of bail during the trial and there is nothing on record to suggest that he administered any threat to the witnesses while on bail. It is well-settled that furlough leave is a matter of right. The ground as recorded being untenable, the Petitioner is entitled to be released on furlough leave. Accordingly, this petition succeeds. The Respondents are directed to release the Petitioner on furlough leave as per rules.

3. Court expresses word of appreciation for Mrs. Rucheeta Dhuru and Mr. Desai for having given able assistance as amicus curiae to espouse the cause of the Petitioner, who had preferred

this petition through jail. Copy of this order be forwarded to the Petitioner, as this petition was filed through jail.

(A.M.KHANWILKAR,J.)